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AKIN GUMP STRAUSS HAUER & FELD LLP
FRASER A. MCALPINE (SBN 248554)
LINDSAY E. GOINES (SBN 238998)
580 California Street, Suite 1500
San Francisco, California 94104-1036
Telephone: 415-765-9500
Facsimile: 415-765-9501

Attorneys for Defendant
THE TIMBERLAND COMPANY
(Correctly named and identified as Timberland Retail, Inc.)

MORRIS AND ASSOCIATES
STEPHEN B. MORRIS (SBN 126192)
MARK C. HINKLEY (SBN 138759)
444 West "C" Street, Suite 300
San Diego, California 92101
Telephone: 619-239-1300

Attorneys for Plaintiff
DAVID LEE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID LEE, an individual, on behalf of
himself and on behalf of others similarly
situated,,

Plaintiffs,

v.

THE TIMBERLAND COMPANY, a New
Hampshire corporation conducting business
in the State of California, and Does 1-100,,

Defendants.

Case No. C07 02367 JF

Arbitration Date: November 13, 2007

Judge: Jeremy Fogel

**STIPULATION AND PROPOSED ORDER
EXTENDING ADR DEADLINE AND
CONTINUING CASE MANAGEMENT
CONFERENCE**

WHEREAS:

1. Pursuant to Counsel's stipulation under Civil Local Rule 16-8 and ADR Local Rule 3-5,
ordered by the Court on August 27, 2007, the parties agreed to hold a private mediation by November
15, 2007. A private mediation was originally scheduled for November 13, 2007.

1 2. On September 17, 2007, the parties to this lawsuit filed a Joint Motion for Notice to
2 Potential Class Members. The Court granted the motion on September 19, 2007. The agreed-upon
3 notice was sent to all potential class members, who were Operations Managers who worked in
4 Timberland stores during the past three years in stores similar in size to the stores where Lee worked as
5 an Operations Manager. The deadline for opting in to the potential class was October 22, 2007. As of
6 that date, twelve Operations Managers submitted consents to join the litigation to plaintiff's counsel.
7 The parties have agreed that these consents are deemed effective on the date received by plaintiff's
8 counsel. Two additional Operations Managers did not opt-in by the agreed-upon deadline; however
9 Timberland agreed to include these two individuals in the potential class.

10 3. Lee and Timberland have exchanged data and information related to wage and work
11 histories for the fourteen potential class members that have opted-in. Since that exchange of
12 information, the parties have been engaging in productive discussions in an effort to resolve the claims
13 of Lee and the opt-in plaintiffs.

14 4. Given this accelerated schedule, both parties agree that they need for additional time to
15 assess the information in order to pursue settlement either with or without a mediator. Accordingly,
16 private mediation schedule for November 13, 2007, is premature. Accordingly, the parties cannot
17 comply with the November 15, 2007, ADR deadline.

18 5. The parties and the private mediator have agreed to reset the mediation for December
19 20, 2007, to allow the parties additional time to assess the relevant information and work toward an
20 amicable resolution.

21 6. At present, a case management conference is scheduled for November 16, 2007. This
22 was scheduled originally to occur after the November 15 ADR deadline. The parties request that the
23 case management be rescheduled so that it will occur after the December 20, 2007, mediation, as
24 originally contemplated.

1 NOW, THEREFORE, THE PARTIES STIPULATE AND AGREE and respectfully
2 request the Court to order as FOLLOWS:

- 3 1. To extend the ADR deadline to December 31, 2007.
4 2. To continue the November 16, 2007, case management conference until January 18,
5 2008.

6 Dated: Nov. 8, 2007

AKIN GUMP STRAUSS HAUER & FELD LLP

7 By Fraser A. McAlpine
8 Fraser A. McAlpine

9 Attorneys for Defendant
10 THE TIMBERLAND COMPANY
11 (Correctly named and identified as
12 Timberland Retail, Inc.)

13 Dated: Nov. 8, 2007

MORRIS AND ASSOCIATES

14 By Stephen B. Morris
15 Stephen B. Morris *by FAW*
16 Attorneys for Plaintiff *with permission*
17 DAVID LEE

18
19
20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21
22 DATED: November 12, 2007.

23 
24 United States District Judge
25 Jeremy Fogel
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is: 580 California Street, Suite 1500, San Francisco, California 94104. On November 7, 2007, I served the foregoing document(s) described as: STIPULATION AND PROPOSED ORDER EXTENDING ADR DEADLINE AND CONTINUING CASE MANAGEMENT CONFERENCE on the interested party(ies) below, using the following means:

Stephen B. Morris
Mark C. Hinkley
MORRIS AND ASSOCIATES
444 West C Street, Suite 300
San Diego, California 92101

Walter Haines
UNITED EMPLOYEES LAW GROUP
65 Pine Avenue, #312
Long Beach, CA 90802

☒ BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at San Francisco, California.

☐ BY OVERNIGHT DELIVERY I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the respective address(es) of the party(ies) stated above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ BY MESSENGER SERVICE I served the documents by placing them in an envelope or package addressed to the respective address(es) of the party(ies) stated above and providing them to a professional messenger service for service.

☐ BY FAX Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the respective fax number(s) of the party(ies) as stated above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission(s), which I printed out, is attached.

☐ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 7, 2007, at San Francisco, California.

HOLLY B. TOSCHI

[Print Name of Person Executing Proof]

[Signature]